

# Exhibit A

JOSEPH BOLOGNA

VS. ENHANCED RECOVERY COMPANY LLC

ATTN: DAVID  
Vaughan  
Fax  
304-340-1080

LINE DATE ACTION

- 1 01/05/15 COMPLAINT;MEMO;SUMMONS ID 01/05/15 BOTH BY SOS AND CM
- 2 01/23/15 R/S SOS ON BEHALF OF ENHANCED RECOVERY CO; 01-13-15

CERTIFIED  
TO BE A TRUE AND EXACT  
COPY OF THE ORIGINAL



**Service of Process  
Transmittal**

01/20/2015

CT Log Number 526426951

**TO:** Rocky Landoll, Legal and License Officer  
Enhanced Recovery Company, LLC  
8014 Bayberry Rd  
Jacksonville, FL 32256-7412

**RE:** Process Served in West Virginia

**FOR:** Enhanced Recovery Company, LLC (Domestic State: DE)

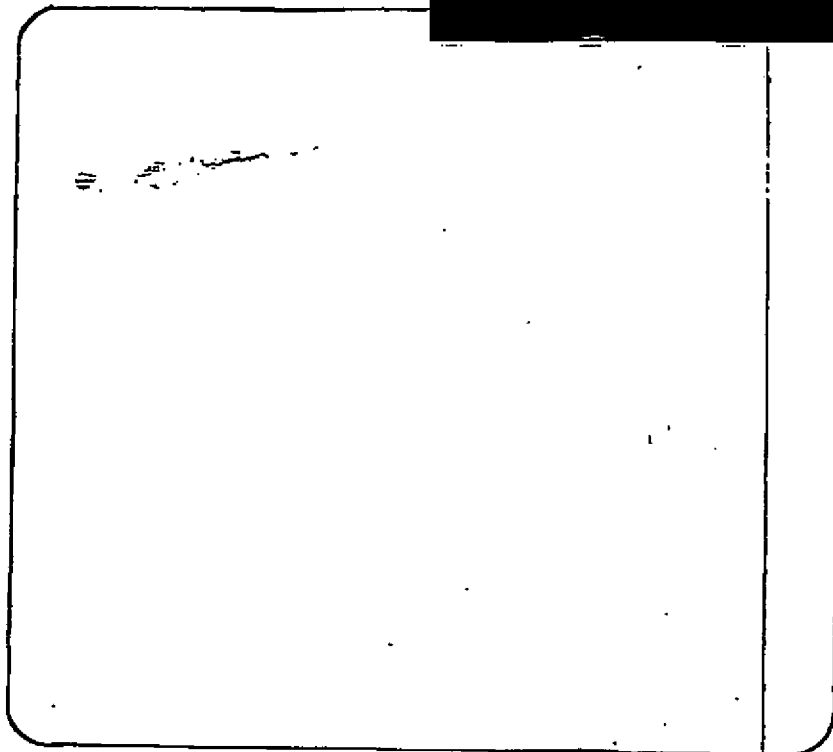
**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Joseph Bologna, Pltff. vs. Enhanced Recovery Company, LLC, Dft.  
**DOCUMENT(S) SERVED:** Summonses and Complaint(s), Exhibit(s), Attachment  
**COURT/AGENCY:** Ohio County Circuit Court, WV  
Case # 15C3  
**NATURE OF ACTION:** Violations of the West Virginia consumer credit and protection act  
**ON WHOM PROCESS WAS SERVED:** C.T. Corporation System, Charleston, WV  
**DATE AND HOUR OF SERVICE:** By Certified Mail on 01/20/2015 postmarked on 01/15/2015  
**JURISDICTION SERVED:** West Virginia  
**APPEARANCE OR ANSWER DUE:** Within 30 days after service of this summons upon you, exclusive of the day of service  
**ATTORNEY(S) / SENDER(S):** Thomas E. McIntire  
82 1/2 Fourteenth Street  
Wheeling, WV 26003  
**ACTION ITEMS:** CT has retained the current log, Retain Date: 01/21/2015, Expected Purge Date: 01/26/2015  
Image SOP  
Email Notification, Rocky Landoll rlandoll@erccollections.com  
**SIGNED:** C.T. Corporation System  
**ADDRESS:** 5400 D Big Tyler Road  
Charleston, WV 25313  
**TELEPHONE:** 919-821-7139

Page 1 of 1 / VS

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

**CERTIFIED MAIL**



**BUSINESS & LICENSING**  
**1610-00**

Office of the Secretary of State  
Building 1 Suite 157-K  
1900 Kanawha Blvd E  
Charleston, WV 25305



**Natalie E. Tennant**

Secretary Of State  
State Of West Virginia

Phone: 304-558-8000

866-767-8683

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[www.wvsos.com](http://www.wvsos.com)

USPS CERTIFIED MAIL®



9214 8901 1251 3410 0000 5330 08

ENHANCED RECOVERY COMPANY, LLC  
C. T. Corporation System  
5400D BIG TYLER RD  
CHARLESTON, WV 25313-1103

Control Number: 49404

Defendant: ENHANCED RECOVERY COMPANY,  
LLC  
5400D BIG TYLER RD  
CHARLESTON, WV 25313-1103 US

Agent: C. T. Corporation System

County: Ohio

Civil Action: 15-C-3

Certified Number: 92148901125134100000533068

Service Date: 1/13/2015

I am enclosing:

**1 summons and complaint**

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.*

Sincerely,

A handwritten signature in cursive script, reading "Natalie E. Tennant".

Natalie E. Tennant  
Secretary of State

**SUMMONS**

**CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA**

**JOSEPH BOLOGNA**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 15-C-3**

**JUDGE: RONALD E. WILSON**

**ENHANCED RECOVERY COMPANY LLC**

**DEFENDANT.**

RECEIVED  
CLERK OF COURT  
2015 JAN 13 PM 1:55  
STATE OF WEST VIRGINIA  
SECRETARY OF STATE

**To the above named Defendant:**

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon THOMAS E. MCINTIRE, plaintiff's attorney, whose address is 82 1/2 14TH STREET, WHEELING, WV, 26003 an answer including any related counterclaim you may have to the complaint filed against you in the above civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above style civil action.

**BRENDA L MILLER**  
**CLERK OF COURT**

Dated: January 05, 2015

BY:

  
**DEPUTY CLERK**

*Please Serve:*

**ENHANCED RECOVERY COMPANY LLC**  
**C/O CT CORP SYSTEM**  
**5400 D BIG TYLER RD**  
**CHARLESTON, WV 25313**



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IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

JOSEPH BOLOGNA,

Plaintiff,

v.

ENHANCED RECOVERY COMPANY, LLC,

Defendant.

Civil Action No. 15-C-3

COMPLAINT

1. Plaintiff, Joseph Bologna, is a consumer residing in West Virginia.
2. Plaintiff, Joseph Bologna, is a person who falls under the protection of Article 2 of the *West Virginia Consumer Credit and Protection Act* (herein "WVCCPA") and is entitled to remedies set forth in Article 5 of the WVCCPA.
3. Defendant, Enhanced Recovery Company, LLC, (herein "Enhanced Recovery"), is a Delaware Limited Liability Company, with its principal address at 8014 Bayberry Rd, Jacksonville, FL, 32256, and conducts business at various locations throughout the United States of America.
4. Defendant, Enhanced Recovery, is a debt collector engaging directly or indirectly in debt collection within the State of West Virginia, including Marshall County, West Virginia.
5. After Plaintiff, Joseph Bologna, became in arrears upon the indebtedness to Sprint, Defendant began to engage in collection of such indebtedness through the use of telephone calls placed to Plaintiff, Joseph Bologna.

6. On or about February 18, 2014, Plaintiff, Joseph Bologna, retained the undersigned counsel to represent his interest in connection with consumer indebtedness on which he had become in arrears.

7. On or about September 3, 2014, Plaintiff, Joseph Bologna's attorney sent correspondence to Enhanced Recovery Company, LLC, requesting validation of debt and advising Enhanced Recovery Company, LLC, to cease and desist all telephone calls and correspondence to Plaintiff, Joseph Bologna, with regard to the above referenced debt. A copy of said correspondence is attached hereto as **Exhibit A**.

8. On or about September 8, 2014, Enhanced Recovery Company, LLC, received a copy of correspondence to Enhanced Recovery Company, LLC, requesting validation of debt and advising Enhanced Recovery Company, LLC, to cease and desist all telephone calls and correspondence to Plaintiff, Joseph Bologna, with regard to the above referenced debt, according to certified mail return receipt, attached as **Exhibit B**.

9. Thereafter, Defendant caused a telephone call to be placed to the residence of Plaintiff, Joseph Bologna.

10. Thereafter, Defendant continued to cause telephone calls to be placed to the residence of Plaintiff, Joseph Bologna.

11. Defendant maintains records of each call placed to the residence of Joseph Bologna by date, time called, duration of call, the identity of Defendant's employee and notes or codes placed upon such record by Defendant's employee.

12. Such records will reflect that Defendant placed numerous telephone calls to the residence of Joseph Bologna, after it appeared that Plaintiff, Joseph Bologna,



was represented by an attorney and the attorney's name and telephone number were known or could be reasonably ascertained.

**COUNT I**

**VIOLATIONS OF THE WEST VIRGINIA**

**CONSUMER CREDIT AND PROTECTION ACT**

13. Plaintiff incorporates the previous paragraphs as if fully set forth herein.

14. Defendant has engaged in repeated violations of Article 2 of the *West Virginia Consumer Credit and Protection Act*, including but not limited to:

- a) engaging in unreasonable or oppressive or abusive conduct towards Plaintiff, Joseph Bologna in connection with the attempt to collect a debt by placing phone calls to the residence of Joseph Bologna in violation of *West Virginia Code §46A-2-125*;
- b) causing the telephone to ring or engaging persons, including Plaintiff, Joseph Bologna, in telephone conversations repeatedly or continuously or at unusual times or at times known to be inconvenient, with the intent to annoy, abuse or oppress Plaintiff, Joseph Bologna in violation of *West Virginia Code §46A-2-125(d)*;
- c) using unfair or unconscionable means to collect a debt from Plaintiff, Joseph Bologna in violation of *West Virginia Code §46A-2-128(b)* by communication with Plaintiff, Joseph Bologna after it appeared that Plaintiff, Joseph Bologna was represented by an attorney and the attorney's name and address were known or could be easily ascertained;

d) failing to clearly disclose the name of the business entity making a demand for money upon the indebtedness of Plaintiff, Joseph Bologna, in violation of *West Virginia Code* §46A-2-127(c).

15. As a result of Defendant's actions, Plaintiff, Joseph Bologna has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued, and otherwise caused indignation and distress.

## COUNT II

### **VIOLATION OF THE WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT**

16. Plaintiff incorporates the previous paragraphs as if fully set forth herein.

17. Plaintiff is a "person" as defined by West Virginia Code §61-3C-3(n) as Plaintiff is a "natural person".

18. Defendant is a "person" as defined by West Virginia Code §61-3C-3(n) as Defendant is a "limited partnership, trust association or corporation."

19. Defendant, with the intent to harass, used an "electronic communication device" as defined by West Virginia Code §61-3C-14a to make contact with Plaintiff after being requested by Plaintiff to desist from contacting him in violation of West Virginia Code §61-3C-14a(a)(2).

20. Plaintiff was injured as a result of the violations of the West Virginia Computer Crime and Abuse Act as set forth above.

21. As a result of the Defendant's actions, Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise was caused indignation and distress.

22. Plaintiff seeks compensatory damages for his injuries as provided by West Virginia Code §61-3C-16(a)(1) and punitive damages pursuant to West Virginia Code §61-3C-16(a)(2).

### COUNT III

#### ***INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS***

23. Plaintiff incorporates the previous paragraphs as if fully set forth herein.

24. The following conduct of Defendant was atrocious, intolerable and extreme so as to exceed the bounds of decency:

a. Defendant placed telephone calls to the residence of Plaintiff, Joseph Bologna, after Defendant knew that Plaintiff, Joseph Bologna, was represented by an attorney, in gross violation of the WVCCPA;

b. Defendant has adopted policies and procedure without regard to West Virginia law, which violate West Virginia law and are designed to, or have the effect of, inflicting emotional distress upon consumers to coerce the consumers to pay money to Defendant;

c. Insofar as Defendant's violations of the WVCCPA are deemed to be "willful," pursuant to *West Virginia Code* §46A-5-103(4) such conduct is, as a matter of law, criminal conduct punishable by fine and/or imprisonment;

d. Insofar as Defendant's conduct caused a phone to ring with the intent to harass, such conduct is criminal pursuant to *West Virginia Code* §61-8-16(a)(3) punishable by fine and/or imprisonment;

22. Plaintiff seeks compensatory damages for his injuries as provided by West Virginia Code §61-3C-16(a)(1) and punitive damages pursuant to West Virginia Code §61-3C-16(a)(2).

### COUNT III

#### ***INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS***

23. Plaintiff incorporates the previous paragraphs as if fully set forth herein.

24. The following conduct of Defendant was atrocious, intolerable and extreme so as to exceed the bounds of decency:

- a. Defendant placed telephone calls to the residence of Plaintiff, Joseph Bologna, after Defendant knew that Plaintiff, Joseph Bologna, was represented by an attorney, in gross violation of the WVCCPA;
- b. Defendant has adopted policies and procedure without regard to West Virginia law, which violate West Virginia law and are designed to, or have the effect of, inflicting emotional distress upon consumers to coerce the consumers to pay money to Defendant;
- c. Insofar as Defendant's violations of the WVCCPA are deemed to be "willful," pursuant to *West Virginia Code* §46A-5-103(4) such conduct is, as a matter of law, criminal conduct punishable by fine and/or imprisonment;
- d. Insofar as Defendant's conduct caused a phone to ring with the intent to harass, such conduct is criminal pursuant to *West Virginia Code* §61-8-16(a)(3) punishable by fine and/or imprisonment;

e. Insofar as Defendant's conduct of engaging in telephone conversations with Plaintiff, Joseph Bologna, were undertaken with the intent to harass, such conduct is criminal conduct proscribed by *West Virginia Code* §61-8-16(a)(4) punishable by fine and/or imprisonment.

f. Insofar as Defendant's conduct constituted knowingly allowing a phone under Defendant's control to be used to harass any person, such conduct is criminal conduct proscribed by *West Virginia Code* §61-8-16(b) punishable by fine and/or imprisonment.

25. As a result of Defendant's actions, Plaintiff, Joseph Bologna, has suffered emotional distress.

26. As a result of Defendant's actions, Plaintiff, Joseph Bologna, has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise caused indignation and distress.

#### **COUNT IV**

##### ***COMMON LAW INVASION OF PRIVACY***

27. Plaintiff incorporates the previous paragraphs as if fully set forth herein.

28. Plaintiff, Joseph Bologna, had, and has an expectation of privacy to be free from harassing and annoying telephone calls within the confines of his home.

29. The acts of Defendant in placing telephone calls to the home telephone number of Plaintiff, Joseph Bologna, in violation of the WVCCPA, invaded, damaged and harmed the right of privacy of Plaintiff, Joseph Bologna.

30. As a result of Defendant's action, Plaintiff, Joseph Bologna, has been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise caused indignation and distress.

31. All of the acts of Defendant alleged herein continue and are continuous acts.

#### **DEMAND FOR RELIEF**

Plaintiff demands from Defendant:

- a) Actual damages for the past and future violations of the WVCCPA as authorized by *West Virginia Code* §46A-5-101(1);
- b) Statutory damages in the maximum amount authorized by *West Virginia Code* §46A-5-101(1) as adjusted for inflation pursuant to *West Virginia Code* §46A-5-106;
- c) Plaintiff's cost of litigation, including attorney fees, court costs and fees, pursuant to *West Virginia Code* §46A-5-104;
- d) That the Court conclude, as a matter of law, that Defendant's violations of the WVCCPA were "willful violations" pursuant to *West Virginia Code* §46A-5-105 and that the Court order that any alleged debt be canceled;
- e) Plaintiff be awarded damages for Defendant's violation of *West Virginia Code* § 61-3C-16 as alleged in Count II of the Complaint;
- f) Plaintiff be granted general damages and punitive damages for Defendant's past and future conduct alleged in Count II, III and IV;
- g) And such other relief as the Court shall deem proper under the circumstances.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas E. McIntire", is written over a horizontal line.

Thomas E. McIntire  
Attorney for Plaintiff

THIS DOCUMENT PREPARED BY:

Thomas E. McIntire, Esquire  
82 1/2 Fourteenth Street  
Wheeling WV 26003  
WV State Bar No. 2471

## EXHIBIT “A”



**THOMAS E. MCINTIRE & ASSOCIATES, L.C.**

82 1/2 Fourteenth Street  
Wheeling, West Virginia 26003  
Phone: (304) 232-8600 Fax: (304) 232-5719

September 3, 2014

Enhanced Recovery Company, LLC  
PO Box 57610  
Jacksonville, FL 32241

Re: Joseph Bologna  
Acct #: 105166998  
Original account #: 4602 Sprint

To Whom It May Concern:

This law office represents Joseph Bologna. Our client has the right to request validation of the debt you say he owes. We are requesting proof of a binding contractual obligation on our client to pay this debt.

Please provide answers to the following questions:

- Original Creditor's Name:
- Name of Debtor:
- Balance of Account:
- Date you acquired this debt:
- This Debt was: assigned purchased

Please indicate any credit bureaus to which you have reported negative marks:

- Experian \_\_\_\_\_
- Equifax \_\_\_\_\_
- TransUnion \_\_\_\_\_

Please attach copies of:

- Any agreement that grants you the authority to collect on this alleged debt:
- Any agreement that bears the signature of our client wherein he agreed to pay the creditor:
- Any insurance claims been made by any creditor regarding this account:
- Any judgments been obtained by any creditor regarding this account:

Enclosed you will find a release whereby you are authorized to release any and all information and records, and any other type of information relating to our client.

You are to immediately cease and desist all telephone calls and correspondence to our client with regard to the above referenced debt as well as any other accounts or debts which your agency is attempting to collect from our client. If you continue to contact our client you might be in violation of the Fair Debt Collection Practice Act and the West Virginia Consumer Protection Act.

Very truly yours,

Thomas E. McIntire & Associates, L.C.

A handwritten signature in black ink, appearing to read "Thomas E. McIntire", with a stylized flourish at the end.

Thomas E. McIntire

TEMcl/ca

## EXHIBIT “B”

THOMAS MCINTIRE  
82 1/2 14TH ST  
WHEELING, WV 26003

PS Form 3800 6/02

**CERTIFIED MAIL**



9407 1118 9956 1334 7484 46

**RETURN RECEIPT REQUESTED**

Article Addressed To:

Enhanced Recovery Company, LLC  
PO Box 57610  
Jacksonville FL 32241-7610

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature: (☐ Addressee or ☐ Agent)

X

*S.B. Berry*  
S.B. Berry

B. Received By: (Please Print Clearly)

C. Date of Delivery

D. Addressee's Address (If Different From Address Used by Sender)

Secondary Address / Suite / Apt. / Floor (Please Print Clearly)

Delivery Address

City State ZIP + 4 Code